

AMENDED IN SENATE MAY 26, 2010

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1104

Introduced by Assembly Member Monning

February 27, 2009

~~An act to amend Section 40215 of the Vehicle Code, relating to vehicles. An act to amend Section 8879.501 of the Government Code, relating to transportation, declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1104, as amended, Monning. ~~Vehicles: parking violations. Transportation: bond-funded projects: letter of no prejudice.~~

(1) Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, authorizes the issuance of \$19.925 billion of general obligation bonds for various transportation purposes. Existing law designates the state agency responsible for programming bond funds under the act as the administrative agency for those purposes. Existing law authorizes a regional or local agency that is a lead agency for a project for which bond funding has been programmed, approved, or otherwise targeted to be available, as specified, to apply to an administrative agency for a letter of no prejudice that would make the regional or local agency eligible for reimbursement from bond funds for expenditures of funds for the project or project component, as specified. Existing law excepts specified projects regarding grade separation and railroad crossing safety improvements from the authorization to apply for a letter of no prejudice.

This bill would permit a regional or local agency to apply for a letter of no prejudice for specified projects regarding grade separation and railroad crossing safety improvements, which are currently prohibited from making that application, as described above.

(2) This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law allows a person to request a review of a notice of parking violation by the issuing agency if the request is made within 21 calendar days from the issuance of the notice or 14 calendar days from the mailing of the notice of delinquent parking violation.~~

~~Existing law also requires a processing agency, within 15 days of a request, to mail or otherwise provide a copy or facsimile of the original parking violation notice to the person who has received the parking violation notice.~~

~~This bill, for purposes of counting the number of days a person has to request an initial review of the notice of parking violation, would exclude the period of time between the day a processing agency receives a request for a copy of the original parking violation notice and the day the processing agency complies with the request.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~^{yes}. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8879.501 of the Government Code is
 2 amended to read:
 3 8879.501. (a) A regional or local agency that is a lead applicant
 4 agency for a project that may be funded pursuant to Chapter 12.49
 5 (commencing with Section 8879.20), ~~other than a project that may~~
 6 ~~be funded pursuant to paragraph (1) of subdivision (j) of Section~~
 7 ~~8879.23~~; may apply to the administrative agency for a letter of no
 8 prejudice for the project or a component of the project. ~~The project.~~
 9 The administrative agency may approve the letter of no prejudice
 10 for one or more projects or project components that the
 11 administrative agency has programmed or otherwise approved for
 12 funding. The letter of no prejudice shall reference the project or
 13 component thereof and the amount of bond funding that is
 14 programmed or otherwise approved for that project or project
 15 component or, in the case of a project or project component eligible
 16 for funding under subdivision (g) of Section 8879.23, the letter

1 may reference the amount of bond funding targeted to be received
2 by the regional or local agency pursuant to subdivision (f) of
3 Section 8879.72. The administrative agency may approve a letter
4 of no prejudice regardless of whether bond funding has been
5 previously appropriated for purposes of the project or project
6 component.

7 (b) Expenditures for the costs, up to the amount set forth in the
8 letter of no prejudice, of a project or project component for which
9 a letter of no prejudice has been issued shall be eligible for
10 reimbursement from the applicable bond proceeds fund or account
11 if all of the following apply:

12 (1) The project or project component for which the letter of no
13 prejudice was requested has commenced and the regional or local
14 expenditures have been incurred.

15 (2) The expenditures made by the regional or local agency are
16 eligible for reimbursement in accordance with state and federal
17 laws and procedures, and are permitted expenditures under the
18 applicable provisions of Chapter 12.49 (commencing with Section
19 8879.20). If expenditures made are determined to be ineligible,
20 then the state has no obligation to reimburse for those expenditures.

21 (3) The regional or local agency complies with all legal
22 requirements for the project, including the requirements of the
23 California Environmental Quality Act (Division 13 (commencing
24 with Section 21000) of the Public Resources Code).

25 (4) The expenditures were incurred after the project or project
26 component was programmed or otherwise approved for funding
27 by the administrative agency.

28 (5) There is in the applicable bond proceeds fund or account
29 under Chapter 12.49 (commencing with Section 8879.20) an
30 appropriated amount sufficient to make the reimbursement
31 payment. Nothing in this section requires any bond proceeds fund
32 or account to be funded at any particular time or in any particular
33 amount.

34 (c) The administrative agency and the regional or local agency
35 may enter into an agreement or agreements governing
36 reimbursement as described in this section.

37 (d) The administrative agency, in consultation with regional
38 and local agencies, may develop guidelines to implement this
39 section.

1 (e) Nothing in this section modifies any requirement under
2 Chapter 12.49 (commencing with Section 8879.23).

3 (f) For purposes of this section, “letter of no prejudice” means
4 an agreement between a regional or local agency and the
5 administrative agency that makes eligible for future reimbursement
6 from bond proceeds the expenditure of funds under the control of
7 the regional or local agency, subject to availability of bond funds,
8 as provided in this section. The timing and final amount of
9 reimbursement is dependent on the terms of the agreement and the
10 availability of bond funds. The final amount of reimbursement
11 may be less than the amount stated in the letter of no prejudice.

12 *SEC. 2. This act is an urgency statute necessary for the*
13 *immediate preservation of the public peace, health, or safety within*
14 *the meaning of Article IV of the Constitution and shall go into*
15 *immediate effect. The facts constituting the necessity are:*

16 *In order for regional and local agencies to begin essential*
17 *projects that are ready for implementation without unnecessary*
18 *delays related to the availability of bond funds, it is necessary that*
19 *this bill go into immediate effect.*

20 ~~SECTION. 1. Section 40215 of the Vehicle Code is amended~~
21 ~~to read:~~

22 ~~40215. (a) For a period of 21 calendar days from the issuance~~
23 ~~of a notice of parking violation or 14 calendar days from the~~
24 ~~mailing of a notice of delinquent parking violation, excluding the~~
25 ~~period of time between the day a processing agency receives a~~
26 ~~request for a copy or facsimile of the original notice of parking~~
27 ~~violation pursuant to Section 40206.5 and the day the processing~~
28 ~~agency complies with the request, a person may request an initial~~
29 ~~review of the notice by the issuing agency. The request may be~~
30 ~~made by telephone, in writing, or in person. There shall be no~~
31 ~~charge for this review. If, following the initial review, the issuing~~
32 ~~agency is satisfied that the violation did not occur, that the~~
33 ~~registered owner was not responsible for the violation, or that~~
34 ~~extenuating circumstances make dismissal of the citation~~
35 ~~appropriate in the interest of justice, the issuing agency shall cancel~~
36 ~~the notice of parking violation or notice of delinquent parking~~
37 ~~violation. The issuing agency shall advise the processing agency,~~
38 ~~if any, of the cancellation. The issuing agency or the processing~~
39 ~~agency shall mail the results of the initial review to the person~~

1 ~~contesting the notice, and, if following that review, cancellation~~
2 ~~of the notice does not occur, include a reason for that denial.~~

3 ~~(b) If the person is dissatisfied with the results of the initial~~
4 ~~review, the person may request an administrative hearing of the~~
5 ~~violation no later than 21 calendar days following the mailing of~~
6 ~~the results of the issuing agency's initial review. The request may~~
7 ~~be made by telephone, in writing, or in person. The person~~
8 ~~requesting an administrative hearing shall deposit the amount of~~
9 ~~the parking penalty with the processing agency. The issuing agency~~
10 ~~shall provide a written procedure to allow a person to request an~~
11 ~~administrative hearing without payment of the parking penalty~~
12 ~~upon satisfactory proof of an inability to pay the amount due.~~
13 ~~Notice of this procedure shall be provided to all persons requesting~~
14 ~~an administrative hearing. After January 1, 1996, an administrative~~
15 ~~hearing shall be held within 90 calendar days following the receipt~~
16 ~~of a request for an administrative hearing, excluding time tolled~~
17 ~~pursuant to this article. The person requesting the hearing may~~
18 ~~request one continuance, not to exceed 21 calendar days.~~

19 ~~(c) The administrative hearing process shall include the~~
20 ~~following:~~

21 ~~(1) The person requesting a hearing shall have the choice of a~~
22 ~~hearing by mail or in person. An in-person hearing shall be~~
23 ~~conducted within the jurisdiction of the issuing agency. If an~~
24 ~~issuing agency contracts with an administrative provider, hearings~~
25 ~~shall be held within the jurisdiction of the issuing agency or within~~
26 ~~the county of the issuing agency.~~

27 ~~(2) If the person requesting a hearing is a minor, that person~~
28 ~~shall be permitted to appear at a hearing or admit responsibility~~
29 ~~for the parking violation without the necessity of the appointment~~
30 ~~of a guardian. The processing agency may proceed against the~~
31 ~~minor in the same manner as against an adult.~~

32 ~~(3) The administrative hearing shall be conducted in accordance~~
33 ~~with written procedures established by the issuing agency and~~
34 ~~approved by the governing body or chief executive officer of the~~
35 ~~issuing agency. The hearing shall provide an independent,~~
36 ~~objective, fair, and impartial review of contested parking violations.~~

37 ~~(4) (A) The issuing agency's governing body or chief executive~~
38 ~~officer shall appoint or contract with qualified examiners or~~
39 ~~administrative hearing providers that employ qualified examiners~~
40 ~~to conduct the administrative hearings. Examiners shall~~

1 demonstrate those qualifications, training, and objectivity necessary
2 to conduct a fair and impartial review. An examiner shall not be
3 employed, managed, or controlled by a person whose primary
4 duties are parking enforcement or parking citation, processing,
5 collection, or issuance. The examiner shall be separate and
6 independent from the citation collection or processing function.
7 An examiner's continued employment, performance evaluation,
8 compensation, and benefits shall not, directly or indirectly, be
9 linked to the amount of fines collected by the examiner.

10 (B) Examiners shall have a minimum of 20 hours of training.
11 The examiner is responsible for the costs of the training. The
12 issuing agency may reimburse the examiner for those costs.
13 Training may be provided through (i) an accredited college or
14 university, (ii) a program conducted by the Commission on Peace
15 Officer Standards and Training, (iii) American Arbitration
16 Association or a similar established organization, or (iv) through
17 any program approved by the governing board of the issuing
18 agency, including a program developed and provided by, or for,
19 the agency. Training programs may include topics relevant to the
20 administrative hearing, including, but not limited to, applicable
21 laws and regulations, parking enforcement procedures, due process,
22 evaluation of evidence, hearing procedures, and effective oral and
23 written communication. Upon the approval of the governing board
24 of the issuing agency, up to 12 hours of relevant experience may
25 be substituted for up to 12 hours of training. In addition, up to
26 eight hours of the training requirements described in this
27 subparagraph may be credited to an individual, at the discretion
28 of the governing board of the issuing agency, based upon training
29 programs or courses described in (i) to (iv), inclusive, that the
30 individual attended within the last five years.

31 (5) The officer or person who issues a notice of parking violation
32 shall not be required to participate in an administrative hearing.
33 The issuing agency shall not be required to produce any evidence
34 other than the notice of parking violation or copy thereof and
35 information received from the Department of Motor Vehicles
36 identifying the registered owner of the vehicle. The documentation
37 in proper form shall be prima facie evidence of the violation.

38 (6) The examiner's decision following the administrative hearing
39 may be personally delivered to the person by the examiner or sent

1 by first-class mail, and, if the notice is not canceled, include a
2 written reason for that denial.

3 (7) Following a determination by the examiner that a person
4 has committed the violation, the examiner may, consistent with
5 the written guidelines established by the issuing agency, allow
6 payment of the parking penalty in installments, or an issuing
7 agency may allow for deferred payment or allow for payments in
8 installments, if the person provides evidence satisfactory to the
9 examiner or the issuing agency, as the case may be, of an inability
10 to pay the parking penalty in full. If authorized by the governing
11 board of the issuing agency, the examiner may permit the
12 performance of community service in lieu of payment of a parking
13 penalty.

14 (d) The provisions of this section relating to the administrative
15 appeal process do not apply to an issuing agency that is a law
16 enforcement agency if the issuing agency does not also act as the
17 processing agency.